

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
GREENBELT DIVISION

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

2013 OCT 15 P 1:57

BRETT KIMBERLIN,  
Plaintiff,

v.

ANONYMOUS BLOGGER  
KIMBERLINUNMASKED,  
Defendant.

No. RWT 13 CV 2580 DEPUTY

CLERK'S OFFICE  
AT GREENBELT

lm

**MOTION FOR EXTENSION OF TIME TO SERVE DEFENDANT**

Now comes Plaintiff Brett Kimberlin and moves this Court to allow him additional time to serve Defendant KimberlinUnmasked in this case. In support of this motion, Plaintiff states:

1. Defendant KimberlinUnmasked is an anonymous blogger who has violated copyright and the Digital Millennium Copyright Act. 17 USC 512(h) allows a Plaintiff in a copyright infringement case to obtain information regarding the identity of anonymous copyright infringers by issuing a subpoena to an entity that possesses that information.
2. Google Inc. is the entity that possesses the information relating to the identity of KimberlinUnmasked.
3. Google Inc. is located in the Northern District Of California.
4. Under Federal Rule of Civil Procedure 45(1)(2)(C), only the court having jurisdiction over the custodian of the requested records can issue a subpoena for documents. *See Brown v. Prince George's Hosp.*, No. RWT 09cv295, 2011 WL 2413344, at \*2 (D. Md. June 9, 2011) ("this Court may not issue subpoenas to any of the [entities] located in Georgia, Ohio, Pennsylvania, Colorado, or

Virginia, as they are located outside of this Court's jurisdiction. See Fed R. Civ. P. 45(a)(2)(C).")

5. On October 9, 2013, Plaintiff sought and received a subpoena from the Northern District of California federal court and served it on Google Inc. on October 15, 2013. See attached copy of subpoena.
6. Plaintiff has given Google Inc. until November 5, 2013 to comply with the subpoena.
7. Plaintiff has another case pending in Montgomery County Circuit Court against Defendant, Kimberlin v. Walker, CV 380996, and a hearing on a Motion to Compel Google Inc. to provide the identity of Defendant is set in that case for November 4, 2013. If that hearing results in a favorable ruling and disclosure of Defendant's identity, the subpoena in this case will be moot.

Wherefore, Plaintiff moves this Court to allow him additional time in which to serve Defendant in this case until such time as Google Inc. complies with the subpoena or otherwise identifies Defendant in the state case.

Respectfully submitted,

Brett Kimberlin 

Certificate of Service

I certify that I emailed a copy of this Motion to Google Attorney John Roche at [JRoche@perkinscoie.com](mailto:JRoche@perkinscoie.com) this 15<sup>th</sup> day of October, 2013.

Brett Kimberlin 